Claim that subsection (l) regarding indirect funding was ''hidden in the fine print''

The Dissenting Views claim that subsection (l) was hidden ''in the fine print'' of the manager's amendment and ''added in the middle of the night.'' Well, subsection (l) was typed on the page in the same font and font size as any other provision in the amendment, and the amendment was distributed the afternoon before the markup, at about 3 o'clock. Subsection (l) was not buried in a footnote. Indeed, the entire charitable choice sections of the amendment consisted of a mere 13 pages, double spaced, in standard legislative counsel format. Of course, we had been working on changes, but we didn't have the final draft until that afternoon and therefore couldn't distribute it to our Republican Members until the day before the markup too.

Claims on indirect funding that are internally inconsistent

The Dissenting Views are internally inconsistent on the significance of indirect funding. On the one hand, on page 305, they state that indirect funding of religious organizations is objectionable because when a religious organization engages in sectarian instruction, worship, or proselytizing with indirect funds, it is still doing so ''with Federal funds.'' But on page 298, the Democrats say it's all right for religious organizations to hire staff based on religion when they receive Federal funds indirectly. Apparently there is dissent even within the Dissenting Views.

Claim that ''you can't have it both ways'' on non-proselytization and hiring on a religious basis

The Dissenting Views state that the Majority ''cannot have it both ways—either the Federal funds will be used for religious purposes, in which case there may be a justification for tolerating religious discrimination [in hiring]; or the funds will be used in a nonsectarian manner, in which case there is no reason to discriminate [in hiring] on the basis of religion.'' This totally misses the point that faith-based organizations perform secular social services motivated by religious conviction. They want to provide social services as a church. While the task of serving the poor and the needy is ''secular'' from the perspective of the government, from the viewpoint of the faith-based organization and its workers it is a ministry of mercy driven by faith and guided by faith. As the Reverend Donna Jones of North Philadelphia stated in her testimony before the House Subcommittee on the Constitution, she and her fellow church members did not want to set up a separate secular organization to perform good works because they were motivated to perform those good works together as a church, and they wanted to retain their identity as a church when they provided the services.

Justice Brennan makes this same point in his concurring opinion in the *Amos* case, which upheld the current Title VII exemption for religious organizations seeking to preserve the religious character of their organization. Justice Brennan recognized that many religious organizations and associations engage in extensive social welfare and charitable activities, such as operating soup kitchens and day care centers or providing aid to the poor and the homeless. Even where the content of such activities is secular—in the sense that it does not include religious teaching, proselytizing, prayer or ritual—he recognized that the religious organization's performance of such functions is likely to be ''infused with a religious purpose.'' *Amos,* 483 U.S. at 342 (Brennan, J., concurring). He also recognized that churches and other religious entities ''often regard the provision of such services as a means of fulfilling religious duty and providing an example of the way of life a church seeks to foster.'' *Id.* at 344. Perhaps one of the greatest liberal Justices, then, recognized that preserving the Title VII exemption when religious organizations engage in social services is a necessary element of religious freedom.

Mostly importantly, faith-based organization employees and volunteers can do their good works out of religious motive. While the task of helping the poor and needy is ''secular'' from the perspective of the Government, from the viewpoint of the faith-based organization and its workers it is a ministry of mercy driven by faith and guided by faith.

Claim that H.R. 7 allows a faith-based organization to discriminate based on interracial dating or marriage

The Dissenting Views claim that H.R. 7 will permit employment discrimination on the basis of interracial marriage. The cited source, an NAACP memo, plays off Bob Jones University v. United States, 461 U.S. 574 (1983). The claim in false. Title VII prohibits racial discrimination in employment by faith-based organizations. It is an act of facial discrimination to fire a while person because he or she marries a black person. There are no reported cases of anyone ever being allowed to be discriminated against by an organization due to interracial dating or marriage under Title VII.

Finally, in no way does H.R. 7 overrule the Bob Jones case. The case involved a challenge to a 1971 IRS Ruling which denied tax exempt status, under 501(c)(3), to any school which engaged in racial discrimination, and the Bob Jones University prohibited interracial dating by its students. The IRS Ruling has nothing to do with federal funding. H.R. 7 does not affect the Supreme Court's decision in any way. The IRS Ruling #71–447 continues in full force and effect.

Claim that Justice O'Connor disapproves of direct funding of religious organizations

In Justice O'Connor's view, monetary payments are just a factor to consider, not controlling. Also, please note that Justice O'Connor concurred in the opinion in Bowen v. Kendrick, where she joined in approving direct cash grants to religious organizations, even in the particularly ''sensitive'' area of teenage sexual behavior, as long as there is no actual ''use of public funds to promote religious doctrines.'' *Bowen* v. *Kendrick,* 487 U.S. 589, 623 (1988) (O'Connor, J., concurring).

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

This particular bill is shared in its jurisdiction between the Committee on the Judiciary and the Committee on Ways and Means. The discussion that we have been hearing is over the second title of the bill. There are three titles. The first title deals with charitable contributions by individuals and businesses. The second title is that which has been under discussion. The third title deals with individual or independence accounts, which is a demonstration program that the Committee on Ways and Means addressed.

I believe, and I hope it is true, that the debate about the constitutionality of this bill, which I do not believe to be meritorious, does not apply in any way to title I and title III discussions. It is well-established in terms of the charitable contribution aspect of the Tax Code. The committee examined these issues through subcommittee hearings, analyzed other Members' pieces of legislation and of course listened to groups who are involved in charitable activities, and then suggested a number of proposed tax changes that could create a more positive environment for giving.

The cost of the bill, over 10 years, as determined by the Joint Committee on Taxation, is a little over $13 billion over a ten year period. About half of that is directed toward creating a greater opportunity for those income tax payers who do not itemize their income taxes. These individuals are then recognized for additional tax contributions to charitable organizations beyond that amount already incorporated into the determination of the standard deduction.

It also addresses the fact that more and more seniors, through very prudent decisions, have individual retirement accounts that they put away for their senior years, and that some individuals, while in those senior years, have decided that they would be able to make additional charitable contributions. There now is a taxable consequence for directing those charitable contributions, and we eliminate that for seniors if they choose to use a portion of their individual retirement account for charitable giving.

In addition to that, there are a number of industries who are involved in the food services business who contribute excess food to charity but who certainly would be induced to do so even more if there was a modest recognition in the Tax Code for the contribution of those foodstuffs. And we will hear more about that provision as we discuss the rest of the provisions.

In addition to that, there are two rather arcane sections of the bill in which, based upon the structure of a corporation, that corporation either may be able to claim the full value of appreciable property or it cannot. The committee decided, listening to testimony, that it did not make any sense to differentiate between a so-called Subchapter S corporation or a C corporation; that a C corporation could donate property and get a deduction for the full appreciated asset and Subchapter S corporations could not.

These are the kinds of changes that constitute title I. As I said, over 10 years, there are about $13 billion. Some may say that these are very modest. But if we examine especially the corporate provisions on foodstuffs and the manner in which appreciable property could be donated, I believe that we will have a significant impact, far more than the $13 billion over the 10 years; and it could amount to as much as several billion dollars the first year.

So it may be called modest, but it is a step in the right direction; and I do hope Members, as they assess their vote on this bill, would look at the consequences of voting no, especially in regard to title I and to title III. These are sections of the bill that should be passed into law. And from my reading